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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,202	08/18/2003	Kathryn W. Hatlestad	14458.01	4063

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EXAMINER

FERNSTROM, KURT

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 05/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/643,202	Applicant(s) HATLESTAD ET AL.	
	Examiner Kurt Fernstrom	Art Unit 3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 12 and 14 recite a "fan means", without an accompanying function. It is not clear whether applicant is attempting to invoke 35 USC 112, p.6, which requires that means-plus-function language be examined in light of the disclosure, to determine whether the prior art discloses or suggests an apparatus which performs substantially the same function in substantially the same way. Applicant is advised to either recite the limitation as a "means for" performing a desired function, or substituting other terminology for the word "means." Also, in claim 14, the word "and" should be inserted before the final claimed feature.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kitchen (US 6,083,110). Kitchen discloses in Figures 18 and 19 and in column 11, line 24 to column 12, line 6 a free fall simulator device comprising a flight chamber, a fan positioned below the flight chamber which is enclosed by a housing, and a plurality of air intake openings in the housing. With respect to the housing, it is not clear what structural limitations are encompassed by the term "noise attenuation housing". Any housing will inherently attenuate the noise of a fan therein, at least to some degree.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitchen. Kitchen discloses all of the limitations of claims 2-5 with the exception of the canopy. However, the structure of the device disclosed by Kitchen appears to bear some resemblance to a canopy, as the housing is attached to the flight chamber in a similar manner. The canopy is considered to be an obvious variation on the device disclosed by Kitchen. With respect to claims 3-5, the ducts 1800 are considered to be "noise attenuation stacks", which are positioned at the peripheral edge of the device and are joined to each other by walls.

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Claims 6-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitchen in view of Macangus. Kitchen discloses or suggests all of the limitations of the claims with the exception of a fan being located in each air intake duct. Macangus discloses in Figures 1 and 4 and in the specification a free fall simulator device comprising a plurality of air ducts 14, where a fan 11 is located in each air duct. It would have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Kitchen by providing a fan in each of a plurality of air intake ducts for the purpose of providing additional means for force air upwards to simulate a free fall. With respect to claims 8-11, the canopy is considered an obvious variation on the teachings of the prior art as discussed above. With respect to claim 13, Kitchen discloses an outlet damper 1820 at the top of each duct 1800, which reads on the claim language.

Allowable Subject Matter

Claims 14 and 15 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 16-20 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to disclose or suggest a device and method having all of the limitations of claims 14, 16 and 19. In particular, there is no suggestion of a substantially closed hood having openable louvers as recited in claim 14. While louvers are a known object, there is no motivation to provide louvers on a hood in the device of Kitchen without using impermissible hindsight. Also, there is no disclosure or

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suggestion in the pertinent prior art of an air lock door system having a pressure transition chamber as recited in claims 16 and 19.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kitchen (US 5,655,909), Giannoutsos, Lenhart, Methfessel, Arenas and De-La-Concha-Caceres disclose various simulator devices and methods.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (703) 305-0303. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KF
May 13, 2004

Kurt Fernstrom
Kurt Fernstrom